

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

NEIL F. LURIA, as Trustee to the
TAYLOR, BEAN & WHITAKER PLAN
TRUST,

Plaintiff-Appellant,

vs.

Case No. 5:18-cv-592-Oc-34

ADP, INC.,

Defendant-Appellee.

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ORDER

THIS CAUSE is before the Court sua sponte. On June 10, 2019, Appellee ADP Inc. (ADP) filed ADP's Unopposed Motion to Accept Exhibits Filed Under Seal as Part of the Record on Appeal. See Doc. 17; Motion. In the Motion, Appellee requested pursuant to Rule 8009(f), Federal Rules of Bankruptcy Procedure (Rule(s)), that this Court accept exhibits designated as part of the record on appeal that the parties previously filed under seal in the underlying bankruptcy proceeding. See id. In relevant part, Rule 8009(f) states:

A document placed under seal by the bankruptcy court may be designated as part of the record on appeal. . .but the bankruptcy clerk must not transmit it to the clerk of the court where the appeal is pending as part of the record. Instead, a party must file a motion with the court where the appeal is pending to accept the document under seal. If the motion is granted, the movant must notify the bankruptcy court of the ruling, and the bankruptcy clerk must promptly transmit the sealed document to the clerk of the court where the appeal is pending.

See Rule 8009(f) (emphasis added).

The Court granted Appellee's Motion on June 11, 2019. See Doc. 18; Order. However, to date it appears Appellee may not have notified the Bankruptcy Court in

accordance with Rule 8009(f), because the bankruptcy clerk has not transmitted the sealed documents that are the subject of Appellee's Motion to the clerk of this Court for inclusion as part of the record on appeal.

Accordingly, it is hereby

ORDERED:

No later than **February 10, 2020**, Appellee ADP shall comply with Rule 8009(f).¹

Failure to do so will result in this Court treating the record on appeal as complete without the sealed documents that are the subject of Appellee's Motion.

DONE AND ORDERED at Jacksonville, Florida on January 23, 2020.


MARCIA MORALES HOWARD
United States District Judge

lc27

Copies to:

Counsel of Record

¹ In the event Appellee encounters difficulty ensuring transmittal of the documents, this Court would remind Appellee of Rule 8009(g), which states "All parties to an appeal must take any other action necessary to enable the bankruptcy clerk to assemble and transmit the record."